

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 19, 2006
Bulk Item: Yes X No

Division: Growth Management
Department: N/A
Staff Contact Person: Ronda Norman & Jose Papa

AGENDA ITEM WORDING:

A Resolution to extend the authority of the Growth Management Director to toll time limit requirements for obtaining a building permit or required permit inspections for properties adversely impacted by the Court ordered permanent injunction on the issuance of new flood insurance policies under the National Flood Insurance Program pending resolution of same.

ITEM BACKGROUND:

On September 9, 2005, the U.S. District Court for the Southern District of Florida entered a permanent injunction preventing the issuance of flood insurance policies for new residential and commercial development commenced after September 9, 2005, until such time as the U.S. Fish and Wildlife Service has demonstrated compliance with that Court's order of March 20, 2005. This injunction will have an adverse impact on many property owners who have either received a ROGO allocation award to build a new home or have already received a building permit to construct a new residence, who will be unable to obtain financing for construction without flood insurance. The time limits in the County Code for obtaining a building permit under a ROGO award is within 60 days of issuance, once the building permit is issued the applicant has 180 days to begin construction unless the time limit is tolled pending resolution of the injunction.

Resolution No. 420-2005, passed on Nov. 16, 2005, granted authority to the Growth Management Division Director to toll the time limits on the expiration of ROGO allocation awards and building permits for those properties affected by the injunction, where the applicant or permit holder can provide written proof of the denial of either flood insurance or financing due to the inability to obtain flood insurance. Resolution No. 420-2005 expires on May 15, 2006. This resolution will extend the authority to toll the time limits for another 180 days from May 15, 2006.

PREVIOUS RELEVANT BOCC ACTION:

On October 19, 2005, the Board directed staff to prepare a resolution to authorize tolling the time limits on ROGO allocation awards and building permits.

Nov. 16, 2005-Passed Resolution No. 420-2005 authorizing staff to toll the time limits on building permits and permit inspections until May 15, 2006.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes No

AMOUNT PER MONTH **Year**

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:


Ronda Norman

DOCUMENTATION: Included X Not Required

DISPOSITION:

AGENDA ITEM #

RESOLUTION -2006

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA EXTENDING THE AUTHORITY OF THE GROWTH MANAGEMENT DIVISION DIRECTOR TO TOLL THE TIME LIMIT REQUIREMENTS FOR OBTAINING A BUILDING PERMIT OR REQUIRED PERMIT INSPECTIONS FOR PROPERTIES ADVERSELY IMPACTED BY THE COURT ORDERED PERMANENT INJUNCTION ON THE ISSUANCE OF NEW FLOOD INSURANCE POLICIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM PENDING RESOLUTION OF SAME, OR 180 DAYS FROM MAY 15, 2006, WHICHEVER FIRST OCCURS; DIRECTING THE PLANNING DIRECTOR TO FORWARD A COPY OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the U.S. District Court for the Southern District of Florida entered a permanent injunction preventing the Federal Emergency Management Agency ("FEMA") from issuing flood insurance policies for residential and commercial development commenced after September 9, 2005, until such time as U.S. Fish and Wildlife Service has demonstrated compliance with that Court's prior order of March 20, 2005 (the "FEMA Injunction"); and

WHEREAS, the Board of County Commissioners of Monroe County, Florida makes the following findings of fact:

1. The U.S. District Court Orders referenced above have imposed severe limitations on new construction for all but the most wealthy property owners in the affected areas.
2. The Growth Management Division staff estimates that over 60 percent of the applicants recently receiving ROGO allocation awards are adversely affected by the injunction.
3. Section 9.5-122.1(g), Monroe County Code provides that a ROGO allocation award and corresponding building permit expires after sixty (60) days from the date of the mailing of the notice of the allocation award unless it is picked up.

4. The Florida Building Code and Section 6-20, Monroe County Code provides that permits shall become null and void unless work authorized by the permit is commenced within 180 days and, once commenced, required inspections are conducted within 180 days from the last required inspection.

5. An unknown number of these applicants receiving a ROGO allocation award or permit holders may be financially unable to proceed with the financing and construction of their homes without federally backed flood insurance.

6. It is uncertain how long the Court ordered injunction on issuance of flood insurance under the National Flood Insurance Program will continue; however, it is certain to have an adverse impact on those applicants who require this insurance to construct new homes.

7. At the Board of County Commissioners' October 19, 2005, regularly scheduled meeting, the Growth Management Division staff received conceptual approval to prepare a resolution that will authorize the Growth Management Division to toll the permit time limits for those applicants with ROGO allocation awards and other permit holders who are unable to proceed with the financing and construction of their residential projects.

8. At the Board of County Commissioners' November 16, 2005 scheduled meeting, the Board passed Resolution No. 420-2005, directing the Growth Management Director to toll time limit requirements for obtaining a building permit or permit inspections for properties adversely impacted by the court ordered permanent injunction on the issuance of new flood insurance policies under the National Flood Insurance Program pending resolution of same or 180 days whichever comes first.

9. Resolution of the Court Case is not foreseeable by May 15, 2006, which is the date of expiration for Resolution No. 420-2005.

10. The Growth Management Division staff has prepared this resolution to extend the toll of time limit requirements for building permits and permit inspections for an additional 180 days after May 15, 2006.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The Growth Management Division Director or his designee is authorized and directed to toll the time limits of Section 9.5-122.1(g) and Section 6-20, Monroe County Code for any applicant receiving a ROGO allocation award or building permit that meets the following criteria:

- 1) The property, which is the subject of the ROGO allocation award or building permit, is on the list of parcels subject to the Court ordered injunction for new flood insurance; and

- 2) The holder of the ROGO allocation award or building permit provides written proof to the Building Department of the denial of either an application for flood insurance for the subject property or denial of financing by a lender due to the inability to obtain flood insurance.

Section 2. The applicable ROGO allocation award or building permit that meets the criteria in Section 1 above will be tolled by the Growth Management Division Director for an additional 180 days after expiration of Resolution No. 420-2005 or until the FEMA Injunction is stayed or lifted, whichever comes first.

Section 3. This resolution shall be transmitted by the Director of Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with Chapter 380 of the Florida Statutes.

Section 4. This resolution shall be filed in the Office of the Secretary of State of the state of Florida, but shall not become effective until approved by the Department of Community Affairs or Administrative Commission.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regularly scheduled meeting of said Board held on the 19th day of April, 2006.

Mayor Charles "Sonny" McCoy _____
Mayor Pro Tem Murray Nelson _____
Commissioner Dixie Spehar _____
Commissioner George Nugent _____
Commissioner David Rice _____

(SEAL)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

